

# HUSCH BLACKWELL

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August 28, 2013

Jessica E. Merrigan  
Lathrop & Gage LLP  
2345 Grand Blvd.  
Kansas City, MO 64108

Re: . Lambert-St. Louis International Airport®

Dear Jessie:

The City of St. Louis, as owner and operator of Lambert-St. Louis International Airport®, has reviewed the Bird Hazard Monitoring and Mitigation Plans ("Bird Plans") proposed by Bridgeton Landfill, LLC as part of the North Quarry Contingency Plan—Part 2 ("Contingency Plan"). We appreciate Bridgeton Landfill putting the Bird Plans together in a separate appendix for the City's review. This letter will set out the City's comments on the Bird Plans.

First, the City agrees that a good first step in developing bird monitoring and mitigation plans for the Contingency Plan operations is to start with the measures that were implemented during operations on the South Quarry projects. These measures were largely successful in mitigating any bird hazards during similar operations conducted this year. It is incorrect, however, to state that the U.S. Department of Agriculture—Wildlife Services ("USDA") approved the plans. USDA did not observe a bird hazard during the South Quarry operations. USDA did not review or approve any plans, however. USDA observed that the waste that surfaced during the operations earlier this year was unattractive to birds, relative to the other food sources available to them at the time of the work; therefore the measures taken were adequate to avoid the creation of a bird hazard at that time. Different wastes under different circumstances, different climate conditions or different times of the year could be more attractive to birds and could require additional measures. The City considers the measures taken in the past, which are outlined in the Bird Plans, to be a first step. The Bird Plans are not sufficient unless they include additional contingent measures to be taken if a bird hazard is observed to exist, despite the implementation of the measures outlined in the Bird Plans.

Second, the Bird Plans do not provide for any wildlife hazard monitoring and reporting activities. The Landfill must plan to monitor wildlife activity during the operations outlined in the Contingency Plan so there is a mechanism to identify a bird hazard if it occurs. Monitoring

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is essential to identify the creation of a bird hazard so that it may be addressed quickly before an aircraft safety hazard develops. Monitoring for a bird hazard during operations that expose and move waste is a Landfill responsibility. The City would like to see specific provisions for daily monitoring of wildlife activities, assigned responsibility to perform this monitoring to trained individuals, periodic reporting back to the City on bird hazard monitoring results and clear directions to increase mitigation measures if a bird hazard is observed. The City's contract with USDA is not adequate to perform continued bird hazard monitoring of the Landfill project or any assessments or mitigation that may be required if a Contingency Plan is triggered or a bird hazard should develop at the Landfill. Monitoring and any mitigation is a project responsibility that should be undertaken by the Landfill.

Third, the Bird Plans indicate that excavated waste materials will be taken to the Transfer Station, as they have been in the past. Please outline in the Bird Plan how the wastes are managed at the Transfer Station to avoid exposure of excavated waste materials to wildlife.

Fourth, the Bird Plans do not address bird hazard mitigation from the new detention basin and the increased flow to the already-constructed basins. We understand that the storm water management plans contain calculations demonstrating that the storm water will drain from the detention basins within 24 hours of a rainfall. We suggest that the Bird Plans 1) refer to the calculations and the plans to drain the basins within 24 hours, 2) contain a plan to inspect the basins on a periodic basis to ensure that vegetation, debris or other obstructions are not present to impair the ability of the basins to drain or create a potential bird nesting habitat, and 3) include observation of the ponds as part of the bird hazard monitoring and report plan discussed above, along with a provision that provides for additional hazard mitigation measures in the event a bird hazard from impounded water is observed.

Fifth, when the Bird Plans are amended to address the City's comments above, the Bird Plans should be adequate to address bird hazards, but regardless of planning and monitoring, if a bird hazard is reasonably identified by the City, the plan must call for appropriate immediate action on the part of the Landfill. As we have discussed in our meetings, wildlife is sometimes unpredictable and planning alone does not necessarily ensure no bird hazard will develop. If a bird hazard develops, for whatever reason, the Bird Plans should provide for expeditious and appropriate action to mitigate the hazard.

Finally, all the Landfill activities will result in an increased potential for a bird hazard and as discussed above, the City does not have the resources to pay for costs associated with monitoring, assessing or mitigation of bird hazards caused by the Landfill, whether arising from detention or retention basins and/or the operations at the Landfill that will expose putrescible waste at the Landfill. Therefore, the City will need to have in place as part of or as a companion document to the Bird Plans a Reimbursement Agreement that will provide that the Landfill reimburse the City for actual reasonable costs incurred by the City to perform wildlife hazard studies, assessments, plans, and/or mitigation programs at the Landfill as may be required or recommended by: 1) the FAA, USDA, or other federal, state, or local government authority with

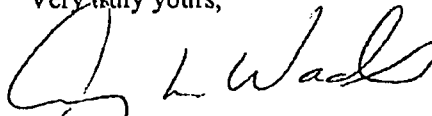
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jurisdiction and/or 2) if the City's wildlife monitoring contractor reasonably determines that a bird hazard has developed or is developing at the Landfill and after reasonable notice the Landfill fails or refuses to take appropriate action to timely mitigate the bird hazard, and the City elects to take such action.

The City looks forward to continuing to work with the Landfill to address plans to mitigate bird hazards in the contingency planning process, and for any operations at the Landfill. If you have any questions on the City's comments, please feel free to call me or e-mail.

Very truly yours,



Amy L. Wachs  
Partner

ALW

cc: Joe Bindbeutel  
Jessica Blome  
Audrey Asher  
Aaron Schmidt  
Chris Nagel  
Brandon Doster